
Decision Maker: RENEWAL, RECREATION AND HOUSING PORTFOLIO
HOLDER

Date: DCC: 19 November 2020

(Discussed at the DCC meeting held on 19 November 2020)

Decision Type: Non-Urgent Non-Executive Key

Title: PROPOSED NON-IMMEDIATE ARTICLE 4 DIRECTIONS TO
REMOVE PERMITTED DEVELOPMENT RIGHTS FOR OFFICE
TO RESIDENTIAL DEMOLITION IN BROMLEY'S DESIGNATED
OFFICE AND INDUSTRIAL AREAS

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Ward: Bromley Common and Keston; Bromley Town; Copers Cope; Cray Valley
East; Cray Valley West; Darwin; Kelsey and Eden Park; Orpington; Penge and
Cator; Plaistow and Sundridge;

1. Reason for report

- 1.1 This report recommends that the Council makes 20 non-immediate Article 4 Directions to withdraw the permitted development (PD) right for demolition of purpose-built detached buildings used for offices (B1a office, B1b research and B1c light industrial) together with their replacement with a single detached block of flats or a single dwellinghouse. These Directions would apply to the three Business Improvement Areas (BIA) in Bromley Town Centre; the majority of Strategic Industrial Locations (SIL) and Locally Significant Industrial Sites (LSIS); and all three Office Clusters, all as shown in the Bromley Local Plan (January 2019). The Directions would come into force at least 12 months after being made, subject to confirmation by the Renewal, Recreation and Housing Portfolio Holder after taking account of representations received.
- 1.2 The areas selected for the Directions are key areas for the retention and promotion of offices, research and light industrial uses. The Article 4 Directions would accompany the existing

Directions which remove office to residential PD rights within the Business Improvement Areas; and the pending Article 4 Directions which will remove office to residential within the three Office Clusters (once they come into effect, if confirmed). It is considered expedient to restrict the operation of the new office to residential demolition PD right in the key areas outlined above due to the strategic importance of these designated areas. The Directions will thereby avoid harmful impacts upon economic development and ensure any development within the areas is properly planned in line with the policies in the adopted Local Plan.

- 1.3 The report was previously discussed at a meeting of the DCC held on 19 November 2020. The DCC Minute for the item can be viewed at Annex A.
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2. RECOMMENDATION(S)

- 2.1 That Members endorse the making of 20 non-immediate Article 4 Directions to withdraw the permitted development right granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (“the GPDO”), Schedule 2, Part 20, Class ZA, which permits a single detached building comprising uses falling within Class B1(a) (office), Class B1b (research) or Class B1c (light industrial) to be demolished and replaced with a residential (Use Class C3) use. The areas in which the Article 4 Directions will apply are shown in the plan attached at Appendix 1.**
- 2.2 That Members note that the Portfolio Holder for Renewal, Recreation and Housing will be asked to authorise the making of 20 non-immediate Directions, and subsequent public consultation for a period of 6 weeks. The Directions will come into force 12 months from the day on which they are made, if they are subsequently confirmed following public consultation. Any confirmation of the Directions will be subject to a future decision.**

Impact on Vulnerable Adults and Children

1. Summary of Impact: None
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Corporate Policy

1. Policy Status: N/A
 2. BBB Priority: Vibrant, Thriving Town Centres Regeneration:
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Financial

1. Cost of proposal: No Cost
 2. Ongoing costs: No Cost
 3. Budget head/performance centre: Planning Policy and Strategy
 4. Total current budget for this head: £0.568m
 5. Source of funding: Existing Revenue Budget for 2020/21
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Personnel

1. Number of staff (current and additional): 10fte
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Article 4 and Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015
 2. Call-in: Applicable: Further Details – Portfolio Decision
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Procurement

1. Summary of Procurement Implications: None
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

Background and planning policy context

- 3.1 Office to residential PD rights were first introduced in May 2013, allowing existing B1a offices to change use to residential use through a light touch prior approval process which only allowed consideration of highways impacts, flood risk and land contamination. Further prior approval categories relating to noise impacts and provision of adequate natural light were subsequently introduced.
- 3.2 Bromley has experienced significant losses of offices as a consequence of this PD right; In total, approximately 53,000sqm of office floorspace has been granted approval since May 2013. To limit the impact of the PD right, Article 4 Directions were made and came into force in 2015; these Directions removed the PD right in designated Business Improvement Areas in Bromley Town Centre. Further Directions have also been made to remove the PD right in designated office clusters; if confirmed, these Directions will come into force in July 2021.
- 3.3 Variations to the office to residential PD right have been mooted since 2015, with a particular focus on a new PD right allowing the demolition of office buildings and its replacement with a new residential building. There have been a number of consultations on the principle and detail of this proposal.
- 3.4 The new PD right has now been introduced – Part 20, Class ZA – which permits the demolition of any building comprising a single purpose-built detached block of flats, and any other single detached building comprising premises established for B1(a), B1(b) or B1(c)¹ uses (or for any combination of them); and its replacement by a single building comprising a purpose-built detached block of flats, or a purpose-built detached dwellinghouse. There are a number of restrictions imposed on this new PD right. The Planning Legislation Update report which was noted by Development Control Committee on 24 September 2020 provides further details².
- 3.5 Article 4 Directions allow authorities to withdraw the PD rights that would otherwise apply by virtue of the GPDO. An Article 4 Direction does not prevent the development to which it applies, but instead requires that planning permission be first obtained from the local planning authority for that development. This gives a local planning authority the opportunity to consider a proposal in more detail, i.e. assessing against policies in the Development Plan. The PD right in question requires prior approval of certain issues, but this determination is limited and does not allow for full consideration against adopted Development Plan policies.
- 3.6 As set out in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG), the use of Article 4 Directions should be limited to situations where they are necessary to protect local amenity and / or the wellbeing of the area. These criteria are not further defined in the NPPF or the PPG. The PPG notes that the potential harm that a Direction is intended to address should be clearly identified. For the Directions proposed in this report, justification is set out in the following sections. The draft London Plan and latest GLA economic publications explicitly support boroughs introducing Article 4 Directions to protect significant areas against losses from PD rights. This also supports Bromley's existing Direction in BIAs and the pending Directions in the newly designated office clusters.

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) refers to the former Use Classes, prior to the change to the Use Classes Order which came into effect on 1 September 2020. This is a transitional provision and the Government have noted their intention to update the GPDO by summer 2021 to incorporate references to the new use classes.

² Available here: <https://cds.bromley.gov.uk/documents/s50083418/PLANNING%20LEGISLATION%20UPDATE%20-%20PERMITTED%20DEVELOPMENT%20RIGHTS%20AND%20CHANGES%20TO%20THE%20USE%20CLASSES%20OR%20DERP.pdf>

- 3.7 Provided that the local authority considers it expedient, an Article 4 Direction can cover an area of any geographic size, from a specific site to a local authority-wide area. PPG advises that any Direction removing PD rights where prior approval powers are available to control PD should have particularly strong justification.
- 3.8 Article 4 Directions can be made with immediate effect or to take effect following a period of notice to remove compensation liability (non-immediate). This report recommends that the Council issues 21 non-immediate Article 4 Directions with a 12-month notice period, in order to reduce the Council's liability to compensate landowners affected by the removal of PD rights. This is discussed further in the legal implications of this report.
- 3.9 Prior to coming into force, the Council must confirm whether it intends to proceed with the Directions, based on consideration of representations received. The decision on whether to confirm will be taken by the Portfolio Holder for Renewal, Recreation and Housing.
- 3.10 During the 12-month notice period, the office-to-residential demolition PD rights would continue to apply. If the Directions are confirmed, following this notice period any demolition and replacement of buildings in office/research/light industrial use to residential within the areas covered by the Directions would require full planning permission.
- 3.11 The Secretary of State for Housing, Communities and Local Government has the power to revoke or modify Article 4 Directions at any time.
- 3.12 There is a range of national, London and local planning policies that are considered material to any decision of whether it is expedient to make an Article 4 Direction.
- 3.13 At a national level, paragraph 80 of the NPPF sets out that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. It states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 3.14 Paragraph 81 sets out a number of requirements which apply to the development of planning policies, including a need to set out a clear economic vision and strategy for their area which positively and proactively encourages sustainable economic growth; and to set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period. The policies set out in the Bromley Local Plan, including the policies identifying Business Improvement Areas, Strategic Industrial Locations, Local Significant Industrial Locations and office clusters, are consistent with these aspects of the NPPF.
- 3.15 Paragraph 81 also states that policies should be flexible enough to accommodate needs not anticipated in the plan, and to enable a rapid response to changes in economic circumstances. The policies set out in the Local Plan are considered sufficiently flexible to respond in such instances.
- 3.16 The PPG requires local planning authorities to prepare a robust evidence base to understand existing business needs, which will need to be kept under review to reflect local circumstances and market conditions. Bromley's Development Plan is underpinned by robust evidence of need (discussed below).
- 3.17 At the London level, the new draft London Plan expects that Outer London will see growth in office and light industrial employment and notes the importance of ensuring sufficient space to support the growth of new start-up companies and to accommodate SMEs. Development Plans and development proposals should support the provision of space suitable for SMEs in light of strategic and local assessments of demand and supply.
- 3.18 Policy E1 outlines that improvements to the quality, flexibility and adaptability of office space should be supported by new office space, refurbishments and mixed-use developments.

- 3.19 Policy E1 Part E states that existing viable office floorspace capacity outside specific Central Activities Zone identified locations should be retained. The policy supports borough Article 4 Directions in locally identified office clusters, to ensure that office functions are not undermined by office to residential PDR and to protect local amenity or the wellbeing of an area.
- 3.20 Policy E2 encourages the provision and protection of Class B uses at a range of sizes and rents to meet the needs of a range of enterprises and start-ups.
- 3.21 Policy E4 requires the provision and maintenance of a sufficient supply of land in London to meet the current and future demand for industrial and other related functions. Policies E5 and E6 relate to SIL and LSIS land respectively and encourage the proactive management of these designated areas to continue to sustain them as London's largest concentrations of industrial land and the intensification of the use of these sites for industrial purposes is encouraged. It is noted that policies E5 and E6 are subject to Directed Changes by the Secretary of State. The main impact of these changes is the removal of the principle of 'no net loss' of industrial uses within SIL and LSIS; and the removal of the Borough industrial land categories. The changes do not affect the underlying principles of policies E4, E5 and E6, which aim to retain, enhance and provide additional industrial capacity across SIL, LSIS and non-designated industrial sites, through a plan-led approach.
- 3.22 The adopted London Plan protects industrial land in SIL and LSIS but allows for some release in line with benchmarks set out in the Land for Industry and Transport SPG. The scale of release allowed depends on specific borough groupings; Bromley is identified as a 'restricted transfer' borough; Boroughs in this category are encouraged to adopt a more restrictive approach to the transfer of industrial sites to other uses and set appropriate evidence based criteria to manage smaller non-designated sites. The Bromley Local Plan policies noted below were deemed consistent with this approach.
- 3.23 Local planning policy set out in the Bromley Local Plan identifies the key areas for economic growth in the Borough, including office and industrial areas. There are a number of applicable policies which will apply to proposals which come forward in these areas (e.g. Local Plan Policies 80-85). Business Improvement Areas and Office Clusters (which are already subject to Article 4 Directions as noted above) are two Local Plan designations which seek the retention and promotion of office premises and floorspace. SIL and LSIS each have applicable policies within the Local Plan that seek to safeguard industrial uses that fall within Use Class B use in these areas.
- 3.24 The proposed Article 4 Directions will include:
- the BIA areas within Bromley Town Centre;
 - the majority of the SIL with the exception of the Foots Cray/Ruxley Corner section as this has very limited floorspace within the relevant Class B1a, B1b and B1c uses, and therefore is not considered to justify the making of a Direction;
 - LSIS across the Borough which have significant amounts of B1 floorspace; and
 - All three office clusters. Each of the clusters falls within an identified renewal area; Masons Hill falls within the Bromley Common renewal area, and Crayfield Business Park and Knoll Rise both fall within the Cray Valley renewal area. The Local Plan (policies 13 and 14) seeks to maximise opportunities for enhancement and improvement of the renewal areas and requires developments in renewal areas to maximise their contribution to economic, social and environmental improvements. Policies 16 and 17 relate specifically to the Bromley Common and Cray Valley renewal areas respectively.
- 3.25 Other non-designated offices were also considered for potential Directions, including a number of sites within Bromley Town Centre. Directions for these sites was considered unnecessary as they were unlikely to meet the requirements set out in the GPDO, e.g. they are not located within solely B1 use, they were had a footprint in excess of 1,000sm or were constructed post 1990.

Proposed Article 4 Directions – justification and evidence

- 3.26 Class ZA PD rights have the potential to significantly undermine planning policies to promote economic growth and could lead to a diminution of office and light industrial stock in the Borough. The PD right does include a number of restrictions which could help mitigate the impact to some degree, especially compared to previously introduced office to residential PD rights; the introduction of these rights in 2013 had very limited restrictions and uptake was significant and led to huge losses of office floorspace. However, the restrictions do not adequately mitigate the potential impacts.
- 3.27 As noted above, Article 4 Directions can be put in place to remove PD rights in certain areas, but they will require strong justification where prior approval powers are available. Officers consider that there is justification to introduce the following Article 4 Directions to remove Class ZA rights in areas which correlate with various office and industrial designations in the Local Plan:
- BIAs within Bromley Town Centre – these areas provide good quality purpose-built offices to create a high quality business environment for the retention of existing businesses and new business development. The BIAs cover part of London Road, Bromley North Station and Elmfield Road/Bromley South. The BIAs currently comprises approximately 60,000 sqm of office floorspace.
 - SILs - although the SILs are primarily industrial B2 and B8 areas, together the SILs in Bromley comprise approximately 6,000 sqm of office floorspace and 6,500 sqm of light industrial floorspace (Class B1c).
 - LSISs – directions are proposed for LSIS that significant amounts of Class B1a, B1b and B1c floorspace, which is the majority of designated LSISs³. Collectively the areas comprise approximately 5,500 sqm of office floorspace (Class B1a), 600 sqm of research floorspace (Class B1b) and 6,000 sqm of light industrial floorspace (Class B1c)
 - Office Clusters at Masons Hill, Knoll Rise and Crayfields Business Park. These office Clusters comprise approximately 24,000 sqm of office floorspace.
- 3.28 Maps of the proposed Article 4 Direction areas can be found at Appendix 1.
- 3.29 The Directions are considered necessary as the PD right has the potential to cause significant harm to local amenity and wellbeing. The areas identified above contribute significantly to the borough's commercial function; loss of office or light industrial floorspace The PD rights compromise the ability of the Council to plan properly to ensure that uses which contribute significantly to economic growth are protected, and to ensure that local wellbeing is maintained. In practical terms, without the Directions there is a very real potential for the loss of jobs and the loss of employment capacity to accommodate future employment need, which is projected to increase over the lifetime of the draft London Plan. This is not just due to the loss of individual premises but also the cumulative impacts from loss of multiple premises, which would undermine the core business function of the commercial areas in question.
- 3.30 The designations and policy preparation for the proposed Directions were supported by an evidence base including several economic and employment land studies. These studies included the following employment-based requirements for additional floorspace for the borough:
- Bromley Retail, Office Industry and Leisure Study (DTZ 2012)⁴: projected need for 121,000 sqm of office floorspace, between 2006 and 2031. The findings of the study are approaching a decade old but updated regional evidence suggests that there continues to be a strong requirement for new office space in the Borough. The study suggests a decline in demand for

³ Article 4 Directions are not proposed for LSISs which do not contain much/any B floorspace – these are Biggin Hill and Oakfield Road

⁴ Available from: https://www.bromley.gov.uk/download/downloads/id/1590/retail_office_industry_and_leisure_study_-_final_report_march_2012.pdf

warehousing/manufacturing space with a surplus of such space against demand. However, updated regional evidence paints a different picture; in the years since the study was produced, demand for such space has increased significantly, as has its importance to the local and regional economy.

- Stimulating the Economy Study (GL Hearn 2013)⁵: potential requirement for over 250,000 sqm of office floorspace, between 2011 and 2031. The study considers that there will be a net requirement for additional industrial/warehouse land over the same period.
- Planning for Growth in Bromley – Cray Business Corridor Study (URS 2014)⁶: 28,800 sqm net additional office floorspace required in the Cray Business Corridor, between 2013 and 2031 (based on a medium growth scenario). The study projects a loss of industrial space in the area over the same period, but also notes that *“the Cray Corridor displays good strategic characteristics for accommodating industrial and logistical businesses and there is significant occupier demand for space at this location as evidenced through consultations and surveys... therefore there is not expected to be a significant net loss of B1c/B2/B8 land or space within this study area location over the plan period.”*

3.31 In addition to this local evidence base, studies are routinely prepared at a strategic level to inform the Greater London Authority’s planning work including the draft new London Plan. Recent studies have included the following floorspace requirements specific to Bromley borough:

- London Office Floorspace Projections (Peter Brett Associates 2014)⁷: projects a range of 78,000 - 103,000 sqm of office floorspace required (depending on employment densities and use of frictional vacancy rates), between 2011 and 2036. These projections informed the Further Alterations to the London Plan adopted in 2015.
- London Industrial Land Supply and Economy Study (2015) (AECOM)⁸: this study underpins the protective approach toward industrial land set out in the draft new London Plan, as opposed to the approach in the adopted London Plan which sets out specific benchmark levels for releasing industrial land between 2011-2031. Figure 2-17 and table 2-8 of the study highlights the actual release of industrial land compared to the adopted London Plan benchmark, showing it to be considerably more than the cumulative annual benchmark over 2010-2015, and over two-thirds of the total benchmark up to 2031. Bromley has a significantly lower vacancy rate (5.4%) than the London average (9.8%) which suggests that available space is at a premium (supported by table 4-7 which shows a large increase in industrial rental values, which exceeds the increase in office rental values). Bromley’s vacancy rate is below the usual frictional vacancy level of 8% which allows for effective operation of the market, i.e. churn of businesses vacating space and new businesses moving in.
- GLA Economic Evidence Base for London (GLA Economics, 2016)⁹: found that Bromley’s contribution to construction, distribution, transport, accommodation and food services remains strong as a proportion of London’s overall output.
- London Office Policy Review (LOPR) 2017 (CAG and Ramidus 2017)¹⁰: the 2017 LOPR is the principal evidence base document which underpins the office policies in the draft new London Plan. It projects a demand for 122,009 sqm (GIA) of office floorspace in Bromley between 2016 and 2041, based on projected office-based employment levels. This is a significant increase on the previous LOPR (published in 2012) which projected around 80,000sqm between 2011 and 2036. These projections are not disaggregated within the borough but it is considered that a significant proportion would be delivered in designated areas set out in the Local Plan, where office

⁵ Available from: https://www.bromley.gov.uk/download/downloads/id/1589/stimulating_the_economy_study_-_final_report_january_2013.pdf

⁶ Available from: https://www.bromley.gov.uk/download/downloads/id/2187/planning_for_growth_-_cray_valley_corridor_study.pdf

⁷ Available from: <https://www.london.gov.uk/file/18777/download?token=9lnaCBWe>

⁸ Study available from: https://www.london.gov.uk/sites/default/files/industrial_land_supply_and_economy2015.pdf; Appendices available from: https://www.london.gov.uk/sites/default/files/appendices_-_london_industrial_land_supply_economy_study.pdf

⁹ Available from: https://www.london.gov.uk/sites/default/files/economic_evidence_base_2016.compressed.pdf

¹⁰ Available from: https://www.london.gov.uk/sites/default/files/london_office_policy_review_2017_final_17_06_07.pdf

use is prioritised. It is noted that the identified office supply in the borough only totals a quarter of the projected employment-based office floorspace projections. The LOPR 2017 also includes trend based forecasts, which project a loss of floorspace; however, it is important to note that any past trends are skewed by the policy framework of the time and also the office to residential PD rights which have led to significant losses of office floorspace (as paragraph 6.2.18 of the LOPR recognizes). Much of the losses that have informed the trend-based approach involved the loss of occupied premises; figure 7.13 shows that PD approvals in Bromley (as of the end of the 2015 FY) involved the loss of over 10,000 sqm of occupied space which disrupted/displaced over 1,000 jobs. The LOPR highlights that vacancy rates in Bromley have been consistently low (under 5%) and availabilities have remained low up to 2015. The LOPR outlines that small office units in particular should be protected in Bromley (figure 6.4).

- London Industrial Land Demand report (CAG, 2017)¹¹: this report outlines a strong demand and tight supply of industrial land across London; the report informs the draft London Plan industrial policies, particularly those policies which seek retention of industrial land. The report projects a reduction in demand for floorspace across London between 2016-2041, based on both employment and trend-based projections. However, in Bromley there is a projected increase in industrial floorspace using both methods, highlighting the importance such space has for the local economy. The report recommends that Local Authorities include stronger policies and utilise Article 4 Directions to protect important industrial areas as part of their long-term planning strategy.
- London Employment Sites Database (LSED) (CAG, 2017)¹²: LSED is a database that records recently completed employment developments and those in the pipeline in London. It is therefore a useful mechanism for identifying whether capacity exists to accommodate projected jobs projections. Table 5.1 identifies a total capacity to accommodate 6,600 jobs, 2,600 of which are office jobs.

3.32 Despite the variety of projections in local and regional studies, they all show a consistently strong employment-based demand for additional office and light industrial floorspace, for the life of Bromley's Local Plan.

3.33 At a national level, the Government's Industrial Strategy (2018)¹³ sets out a framework to co-ordinate a wide range of economic policies to respond to a series of 'grand challenges'. Meeting these challenges is essential in order to increase productivity and to meet the needs of future industries. The Industrial Strategy proposes a series of Local Industrial Strategies that build on local strengths and deliver economic opportunities. The Evidence Base for London's Local Industrial Strategy (2020)¹⁴ presents clear, robust and comprehensive evidence on London's economy with a view to supporting the overall objective of achieving inclusive growth in London. The report highlights London's employment growth over the past 10 years, including a 4.9% increase in jobs from 2015-2018 and an increase in labour productivity of 1.6% and GVA increase of 23.7% from 2010-2017. Business start-up rates remain high in London, with cheaper outer London locations being important for SMEs. Bromley has been, and will continue to be, an important contributor to London's economic output.

3.34 Overall, the designated areas to be covered by the Directions contain over 100,000 sqm of office and light industrial floorspace. Further loss of space in the designated areas could reduce opportunities for fledgling businesses to secure space, and could also mean that existing businesses looking to grow are not retained as they may be forced to look outside the borough for additional space. It also means that any potential agglomeration benefits are likely to be lost, which could have a significant impact on the local economy.

¹¹ Available from: https://www.london.gov.uk/sites/default/files/ilds_revised_final_report_october_2017.pdf

¹² Available from: https://www.london.gov.uk/sites/default/files/lesd_final_report_may_2017.pdf

¹³ Available from:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/664563/industrial-strategy-white-paper-web-ready-version.pdf

¹⁴ Available from: <https://www.london.gov.uk/sites/default/files/lis-evidence-base-final.pdf>

3.35 The introduction of residential premises could also pose a threat as it increases the risk of noise and disturbance complaints due to locating incompatible uses next to one another, and hence causing negative impacts on the amenity of these businesses. For industrial uses in particular, both the type of operation and propensity for greater numbers of vehicle trips by large vehicles means they are specifically unsuited to being located adjacent to residential uses.

4. POLICY IMPLICATIONS

- 4.1 As set out in the main body of this report, there could be significant adverse impacts on local amenity and wellbeing resulting from the loss of office, research and light industrial floorspace, if the proposed Article 4 Directions are not put in place. This could undermine elements of the Development Plan, particularly economic policies set out in the Local Plan and draft new London Plan. For those office, research, light industrial and industrial uses that continue to operate in designated areas where new housing is developed through PD, they could experience significant adverse impacts in terms of effective business operation and possible expansion. The prior approval for Class ZA does allow some consideration of this but it is not the equivalent to a full assessment against Development Plan policy.
- 4.2 The proposed Directions will restrict housing supply to a degree, but this is likely to be of limited impact in terms of restricting the amount of new residential units created, and hence the effect on the Council's ability to meet housing targets is limited. The areas subject to the Directions cover 0.803 square kilometres (0.53% of the total area of the borough), which is a small proportion and leaves a significant amount of land where PD rights would continue to apply. The potentially significant economic impacts on designated office and industrial areas, identified in this report, would outweigh this potentially limited impact on housing supply, in terms of the deciding whether it is expedient to pursue Article 4 Directions for the proposed areas.
- 4.3 The quality of the housing created must also be considered alongside any impact on housing supply. The creation of new housing is not just a numbers game; it is essential that new housing is fit for purpose in order to ensure sustainable development, for example ensuring appropriate sustainable design measures to mitigate climate change. PD rights have become synonymous with poor quality, small homes. As Article 4 Directions would require planning permission to be secured for such developments in the future, this will ensure delivery of higher quality residential units and assist with the delivery of sustainable development in the borough. It is recognised that the Government have indicated that minimum space standards will be required for new housing developed through PD rights, but, important as these standards are, this will not guarantee the development of high quality housing; only full application of Development Plan policy can do this.
- 4.4 The industrial areas to be covered have a distinct commercial function and are not considered to be the most suitable areas for delivery of housing. Regardless of this, while the Directions would remove PD rights, they would not remove the potential for housing in all of these areas entirely, for example as part of a mixed-use redevelopment or intensification in BIA or office clusters, as the relevant policies does not preclude housing in principle where the employment use of the sites is not undermined. Requiring housing to come through the full planning permission route is more likely to deliver sustainable development which has economic, social and environmental benefits, in line with the objectives of the Development Plan.
- 4.5 It is noted that the changes to the Use Classes Order could also affect office supply, given that former B1 uses are now within Use Class E and in most cases will be free to move to any other use within Class E. However, the impact of this potential change is not analogous to the potential impact of the PD right in terms of impacts; both would involve the loss of office/light industrial space but the PD right would lead to full loss of commercial use whereas change within Class E is likely to have adverse impacts on office and light industrial supply but will at least help to retain a commercial function within specified areas. The introduction of residential use through Class ZA could also cause adverse impacts due to residential and commercial uses being in close proximity. This can be considered to a degree through prior approval and relevant policies such as those relating to agent

of change could be material to the prior approval assessment, but ultimately the PD right does heighten the risk of adverse impacts and does not offer the same protection against these issues as the full suite of policies in the Development Plan, applied to a planning application.

- 4.6 Prior approval permissions have often been used as a ‘fallback’ position, whereby developers secure prior approval permission and then subsequently apply for full planning permission for a more comprehensive development on the same site, noting that if this permission was not granted then there is an extant prior approval that can be delivered. Fallback positions can be material considerations in the determination of planning applications although the weight given would depend on whether the applicant has secured the prior approval permission; it is not enough to just highlight that prior approval permission could be sought, as there is no guarantee prior approval will be granted. Where prior approval permission has been granted, an applicant would also need to demonstrate that there is a realistic intention to implement the prior approval, for the fallback to be given weight. It is noted that development granted through the office to residential demolition PD rights must be completed within three years of the date of grant of prior approval, which will factor into any consideration of the weight given to a fallback position.
- 4.7 The impacts of the COVID-19 pandemic are currently uncertain, but it is noted that it could have significant impacts on the local economy and housing supply in particular. However, such impacts are not yet evident, for example through higher vacancies. If impacts do materialise, this does not necessarily have implications for the Directions, as these impacts could be a material consideration in a future planning application. However, the PPG notes that it is important for local planning authorities to monitor any Article 4 Directions regularly to make certain that the original reasons the Directions were made remain valid. Therefore, the impact of the COVID-19 pandemic, as well as other positive and negative impacts, will be an ongoing consideration to help determine whether the Directions should remain in place.

5. FINANCIAL IMPLICATIONS

- 5.1 This report recommends 20 non-immediate Article 4 Directions which will ensure that compensation liability is removed. This requires a 12-month notice period to be given, before the Directions come into effect. During this period, the PD rights would continue to apply, and landowners might take advantage of these rights. However, if the Council were to remove these rights with immediate effect, any refusal of planning permission could result in compensation liability. Compensation can be claimed based on abortive expenditure or other loss or damage directly attributable to the withdrawal of PD rights; this could include differences in land value between office and residential, which could be substantial.
- 5.2 Costs associated with publishing and consulting on the Article 4 Directions will be met by Planning Policy and Strategy and the Council’s legal services department.

6. LEGAL IMPLICATIONS

- 6.1 Article 4 (1) of the GPDO allows local Planning authorities to withdraw certain PD Rights. The procedure for putting in place an Article 4 Direction is set out in Schedule 3 of the GPDO. The Council’s legal services department will be responsible for making and publicising the Directions, in line with the statutory requirements set out in the GPDO. This includes a period of at least 3 weeks to allow for representations to be made on the proposed Directions; it is the intention to consult on the proposed Directions for 6 weeks to allow ample time for interested parties to respond. Any representations received must be taken into account before making any decision whether to confirm the Directions.
- 6.2 There is also a requirement for serving notice on owners and occupiers of every part of land within the areas to which the Directions relate, unless the local planning authority considers that the number of owners or occupiers within the area to which the direction relates makes individual service impracticable. The proposed Directions together encompass over 1,500 properties (which

includes instances where there are numerous properties within a single building). This level of notification is considered to be impracticable, hence individual notice will not be given. Notice will be given by local advertisement and site notice, as per the other requirements of the GPDO.

6.3 The GPDO requires notice of the proposed Directions to be given as soon as practicable. Due to the current COVID-19 restrictions, it may not be practicable to give notice as per the GPDO requirements. In such instances, the Council will seek to issue notice following the lifting of the COVID-19 restrictions. This is considered to be a practical and pragmatic approach as advocated in the Chief Planners Letter of 20 March 2020¹⁵.

Non-Applicable Sections:	IMPACT ON VULNERABLE ADULTS AND CHILDREN PERSONNEL IMPLICATIONS PROCUREMENT IMPLICATIONS
Background Documents: (Access via Contact Officer)	Bromley Local Plan 2019 - https://www.bromley.gov.uk/download/downloads/id/4768/bromley_local_plan.pdf The London Plan 'Intend to Publish' version, December 2019 - https://www.london.gov.uk/sites/default/files/intend_to_publish_-_clean.pdf National Planning Policy Framework (February 2019) - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf

¹⁵[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/875045/Chief_Planners_Newsletter - March 2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/875045/Chief_Planners_Newsletter_-_March_2020.pdf)